

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
January 24-28, 2005

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
1-25	EX	78160932	Independent Pharmaceutica AB	Quinn Hohein* Bottorff	2(d)	Refusal Affirmed		"NICCIN" [vaccines; and anti-smoking pharmaceutical preparations in the form of tablets]	"NICOCIN" [pharmaceutical preparations, namely, medications for suppressing, reducing, or eliminating smoking or the urge to smoke]	Dwyer	No
1-25	EX	76268678	Fusion UV Systems, Inc.	Quinn* Hairston Walters	whether applicant's specimens show use of its mark in connection with its recited services in Class 40	Refusal Reversed as to Class 40 [Note: <i>The same refusal with respect to the goods in Class 42 was withdrawn prior to appeal</i>]		"INVISIBLE BUT EVERYWHERE" [in Class 40: material treatment services in the field of polymerizing coatings, inks, powders, composite structures and gels using ultraviolet light]		Delaney	No
1-25	OPP	91116378	Allied Domecq Spirits & Wine USA, Inc. v. Lattis R. Richards	Walters Holtzman Rogers*	2(d)	Opposition Sustained	"MALIBU" and "MALIBU" (and design) [both marks for liqueur]	"MALIBU ROCKS" [white chocolate covered walnuts and pecans]			No
1-25	EX	78161583	Pamela Jean Bowman	Seeherman Quinn Hairston*	2(d)	Refusal Affirmed		"DESERT ROSE" [perfume, perfume spray, cologne, cologne spray, toilet water, hand cream, bath soap, bath crystals, body lotion, body powder, shower gel, and hair spray]	"DESERT ROSE" [depilatory wax]	Thompkins	No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

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1-25	CU	94001147	Hubcap Heaven, LLC v. Hubcap Heaven, Inc.	Seeherman Chapman* Rogers	whether the concurrent use applicant is entitled to the concurrent use registration it seeks	Concurrent use applicant granted its requested concurrent use registration; Concurrent use applicant's existing registration similarly restricted	"HUBCAP HEAVEN" [wholesale and retail store, mail order, and on-line electronic catalog sales order services in the field of new, reconditioned and used automotive parts (for the area comprising the entire U.S., except for the areas within a 50-mile radius around Metairie LA, Pittsburgh PA, Memphis TN, and Virginia Beach VA)]	"HUBCAP HEAVEN" [retail store services featuring automotive hubcaps]			No
1-25	EX	76426050	Network Associates Technology, Inc.	Quinn Hairston Drost*	genericness; whether, if not generic, applicant's mark is registrable under Section 2(f)	Refusal Reversed		"VIRUSSCAN" [computer utility software; computer software for protecting and securing the integrity of data, computer software, and computer and communications networks; computer software for identifying and correcting faults and errors in the operation of computer software and over computer and communications networks]		Faint	No
1-25	EX	76490165	Leiner Health Services Corp.	Walters Bottorff Drost*	2(e)(1)	Refusal Affirmed		"OPTIMAL DAILY INTAKE" [vitamins and dietary food supplements]		Estrada	No

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1-25	EX	75622598	IMES Group Limited	Quinn Walters* Drost	2(e)(1); whether applicant's mark has acquired distinctiveness, under Section 2(f), for its recited goods and services	Refusal Reversed as to both classes of goods and services on basis that applicant is entitled to registration under Section 2(f), although mark found merely descriptive as to both classes of goods and services		"WATER WEIGHTS" [<i>in Class 9</i> : load testing systems comprising load test bags, strain gauges, stress gauges, load sensors, shackles, non-electric cables, metal hooks, spreader bars, load data logging and display instruments, namely, computer hardware, computer monitors, electric luminescent display panels; <i>in Class 42</i> : services for the testing of load bearing structures, namely, proof load testing and certification of cranes, rigging, davits, bridges, gantries, platforms, floors; testing of life boat systems]		Gaskins	No
1-26	EX	78166404	Douglas E. Crystal	Hanak* Chapman Drost	2(e)(1); whether the recitation of services is sufficiently definite	Refusal Affirmed under Section 2(e)(1) [Board did not reach the issue of the definiteness of the recitation of services]		"THE CLASSIFIED CHANNEL" [television broadcasting services, advertising services, Internet advertising services, product ordering services, telephone ordering services, telephone call center services, employment center services, employment services, auction services, legal advertising services, musical services]		Berk	No

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1-26	EX	75868810	Webb & Associates, Inc.	Seeherman Holtzman Drost*	whether the matter applicant seeks to register functions as a mark (is used in the manner of a mark) for its recited services	Refusal Affirmed as to all classes of services		"NEED SPACE" [<i>in Class 35</i> : referrals for general building contractors; <i>in Class 36</i> : real estate agency services, namely, real estate brokerage, leasing, and agency representation for commercial renters obtaining utility hook-up services; <i>in Class 37</i> : real estate site selection; real estate development; general contracting services in the nature of electrical and plumbing contracting; <i>in Class 42</i> : architectural design services]		Brown	No
1-26	OPP	91125078	Unsworth Transport Int'l, Inc. v. UTI Worldwide, Inc.	Hairston* Chapman Bucher	2(d)	Opposition Sustained	"UTi" [transportation and logistical services, including: cargo handling; warehouse storage; warehousing services; freight brokerage; freight transportation by air, truck, train; freight forwarding by air, sea and land; and custom house brokerage]	"UTi"(and design) [freight brokerage; freight forwarding; freight forwarding by air, sea or land; shipping of freight; warehouse storage; and packaging of freight for transportation]			No
1-28	EX	78134399	AMI Semiconductor, Inc.	Hairston* Chapman Drost	2(d)	Refusal Affirmed		"ASTRIC" (and design) [integrated circuits, semiconductors, and microprocessors]	"ASTRIX" [semiconductors]	Fairbanks	No

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1-28	EX	76313476	Acquisition Solutions, Inc.	Seeherman Quinn* Hohein	2(e)(1)	Refusal Reversed		"ACQUISITION SOLUTIONS TRAINING INSTITUTE" [training services, namely, conducting courses, seminars, conferences, workshops, materials, and multi-media presentations, in the fields of government contracting, market research, strategic sourcing and source selection, mission and strategic planning, requirements definition, asset management, supply chain management, program management, contract performance agreement, acquisition knowledge management, procurement, and related laws, regulations, policies, and practices]		McBride	No
1-28	EX	76337681	Sound International, Inc.	Hairston* Holtzman Rogers	2(d)	Refusal Affirmed		"BOSTON HARBOR" [oscillating portable fans, stand fans, table fans, wall fans, ceiling fans, electric household and portable fans]	"BOSTON" [fans]	Stine	No
1-28	EX	76506970	Trex Company, Inc.	Seeherman* Hohein Holtzman	2(e)(1)	Refusal Affirmed		"DECKSCAPES" [magazine containing design ideas for decks]		Wahlberg	No

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